

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Attached hereto is a marked-up version of the changes made to the application by the present Amendment. In the present Office action, the Examiner has stated that the application contains inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1, and that under 37 C.F.R. §1.499, applicant is required to elect a single invention to which the claims must be restricted. The Examiner has divided the claims of the present application into Group I (claims 28-35), Group II (claims 37-47) and Group III (claims 48-50).

Applicant hereby elects, with traverse, the subject matter of Group I, and additionally, claim 36, which Applicant asserts is part of Group I. Accordingly, claims 28-36 are presented for examination. It is submitted that the claims of Group I, Group II, and Group III are not independent and distinct inventions, but rather share common technical features that define a contribution over the state of the art.

In this regard, it is noted that the "unity" of the claims was implicitly acknowledged during the international phase. Accordingly, it is submitted that under Article 27 of the PCT and 37 CFR 1.475, the USPTO cannot now properly require restriction. The Examiner is asked to reconsider and withdraw the pending restriction requirement.

According to PCT Rules 13.01 and 13.2, the unity requirement is met if a group of inventions is linked so as to form a general inventive concept – i.e., that there is a technical relationship among the inventions. The inventions have to share one or more of the same or corresponding special technical features. The expression "special technical features" means those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. The special technical feature linking all the claims is the defined synthetic particle.

Claim 28 has been amended to more clearly describe the invention of Group I. The limitations of claim 34 have been incorporated into claim 28 to specify the

size of the claimed particles. Claim 34 has been cancelled. Applicant respectfully asserts that claim 28 is not anticipated by Zukermann et al. Zukermann et al. teaches polycationic polymers in the relevant molecular weight range. The described polycationic polymers are strongly charged, and are constructed for the formation of complexes together with DNA. The polycationic polymers of Zukermann et al. are not in particle form. Furthermore, Zukermann et al. does not teach the use of arginine. Therefore, claim 28 is not anticipated by Zukermann et al.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If clarification of the amendment or application is desired, or if issues are present which the Examiner believes may be quickly resolved, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. WFG-12544.

Respectfully submitted,

RANKIN, HILL, PORTER & CLARK LLP

By: 

David E. Spaw, Reg. No. 34732

700 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1405
(216) 566-9700
Customer No. 007609

Attachment: Marked-up version of Amendments